

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BAYER INTELLECTUAL PROPERTY)	
GMBH, BAYER PHARMA AG, and JANSSEN)	
PHARMACEUTICALS, INC.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 15-902 (RGA)
)	CONSOLIDATED
AUROBINDO PHARMA LIMITED,)	
AUROBINDO PHARMA USA, INC.,)	
BRECKENRIDGE PHARMACEUTICAL,)	
INC., INVAGEN PHARMACEUTICALS, INC.,)	
MICRO LABS LTD., MICRO LABS USA)	
INC., MYLAN PHARMACEUTICALS INC.,)	
PRINSTON PHARMACEUTICAL INC.,)	
SIGMAPHARM LABORATORIES, LLC,)	
TORRENT PHARMACEUTICALS, LIMITED,)	
and TORRENT PHARMA INC.)	
)	
Defendants.)	

STIPULATION AND PROPOSED ORDER

This Stipulation is made by and between (1) Bayer Intellectual Property GmbH, Bayer Pharma AG, and Janssen Pharmaceuticals, Inc. (collectively “Plaintiffs”) and (2) Breckenridge Pharmaceutical, Inc. (“Breckenridge”).

WHEREAS Plaintiffs filed suit against Breckenridge in the above-captioned case (the “Action”), asserting infringement under 35 U.S.C. § 271(e)(2) of U.S. Patent Nos. 7,157,456; 7,858,860; and 7,592,339 (the “patents-in-suit”);

WHEREAS Plaintiffs and Breckenridge wish to stay the Action as against Breckenridge;

WHEREAS Plaintiffs and Breckenridge wish for Breckenridge to be bound by the final judgment as it pertains to the patents-in-suit in the Action; and

NOW THEREFORE, Plaintiffs and Breckenridge, by and through their respective undersigned counsel in the Action, and subject to the approval of the Court, stipulate and agree as follows:

1. The Action will be stayed as between Plaintiffs and Breckenridge.
2. Once this Stipulation and Proposed Order has been approved by the Court, the proceedings involving Breckenridge are stayed until such time as final judgment is entered by this Court following actual litigation on the merits in the Action (*i.e.*, excluding judgment that is entered as a result of settlement, consent judgment, stipulated judgment, or other judgment or disposition that is not an actual contested decision on the merits in the Action). That is, Breckenridge will not participate in the Action, and as such will not, for example, produce any additional documents, participate in or be subject to any depositions, submit any expert reports, file any pleadings, or appear at the trial in this matter.
3. If the Action as to all other Defendants is resolved by settlement or any other type of stipulated, consent or otherwise agreed final judgment prior to the entry of a final Judgment on the merits by the Court, the parties agree that the stay of the Action shall be lifted upon the request and motion of any party.
4. Breckenridge agrees to be bound by any final judgment, including any injunction, rendered in this Action as to any other Defendant or Defendants, as if the case against Breckenridge had not been stayed.
5. If the Court holds that any Defendant remaining in the Action infringes any of the claims of the patents-in-suit, Breckenridge will be held to infringe those claims as well.

6. If a final judgment regarding validity is entered in Plaintiffs' favor as to any of the other Defendants in the Action with respect to any of the patents-in-suit, final judgment will be entered in Plaintiffs' favor against Breckenridge as well with respect to the same patent or patents.
7. If a final judgment regarding validity is entered in favor of any of the other Defendants in the Action with respect to any of the patents-in-suit, final judgment will be entered in Breckenridge's favor as well with respect to the same patent or patents.
8. Breckenridge and Plaintiffs retain the right to file an appeal from the judgment by the District Court in the Action and to challenge on appeal the merits of the Final Judgment.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

PHILLIPS, GOLDMAN, McLAUGHLIN & HALL,
P.A.

/s/ Jack B. Blumenfeld

/s/ John C. Phillips, Jr.

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Janssen Pharmaceuticals, Inc.*

April 24, 2017

SO ORDERED this ____ day of April, 2017.

United States District Judge